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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA
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9 United States of America,) CR 09-8022-PCT-JAT
10 Plaintiff,) **ORDER**
11 vs.)
12)
13 Michael Tsosie,)
14 Defendant.)
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16 On July 17, 2009, Defendant filed a request for a voluntariness hearing, “to determine
17 the voluntariness of any statements the government intends to introduce at trial.” Doc. #47.

18 “A hearing is not required on a motion to suppress if the grounds for suppression
19 consist solely of conclusory allegations of illegality.” *United States v. Ramirez-Garcia*, 269
20 F.3d 945, 947 (9th Cir. 2001) (citing *United States v. Wilson*, 7 F.3d 828, 834 (9th Cir. 1993)).

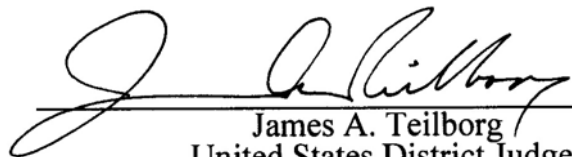
21 “An evidentiary hearing on a motion to suppress [a confession] need be held only when the
22 moving papers allege facts with sufficient definiteness, clarity, and specificity to enable the
23 trial court to conclude that contested issues of fact exist.” *United States v. Howell*, 231 F.3d
24 615, 620 (9th Cir. 2001) (citing *United States v. Harris*, 914 F.2d 927, 933 (7th Cir. 1990);
25 *United States v. Irwin*, 612 F.2d 1182, 1187 n.14 (9th Cir. 1980); and *United States v.*
26 *Carrion*, 463 F.2d 704, 706 (9th Cir. 1972)). Defendant cannot simply rely on the fact that
27 the Government has the burden of proof to establish voluntariness. *See Howell*, 231 F.3d at
28 621 (affirming denial of evidentiary hearing where defendant “submitted a boilerplate motion

1 that relied wholly on the fact that the government has the burden of proof to establish
2 adequate Miranda warnings"); *see also* L.R.Crim. 16.1(b).

3 In his Request for Voluntariness Hearing, Defendant did not allege any facts, much
4 less facts "which, if proved, would allow the court to suppress the confession." *Id.* Thus,
5 the Court will proceed with the hearing on August 4, 2009 on Defendant's motion to
6 suppress statements (Doc. #26), but

7 IT IS ORDERED that Defendant's boilerplate request for a voluntariness hearing
8 (Doc. #47) is denied.

9 DATED this 17th day of July, 2009.

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13 James A. Teilborg
14 United States District Judge
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